

Nathan James Lloyd Howell
08/23/2022

30(b)(6)

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL OLIVER,

Plaintiff,

Case No. 20-cv-12711

-vs-

Hon. Laurie J. Michelson

DONALD BUSSA, in his individual and
official capacity, and CITY OF
DETROIT, Jointly and Severally,
Defendants.

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The Deposition of NATHAN JAMES LLOYD HOWELL as the
30(b)(6) Designee of the City of Detroit,
Taken at 2 Woodward Avenue, Suite 500,
Detroit, Michigan,
Commencing at 10:13 a.m.
Tuesday, August 23, 2022
Before Cynthia Ann Chyla, RPR, CSR, 0092.

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Detroit, Michigan

Tuesday, August 23, 2022

About 10:13 a.m.

NATHAN JAMES LLOYD HOWELL,
having first been duly sworn, was examined and testified
on his oath as follows:

MR. ROBINSON: This deposition is taken
pursuant to Notice and to be used for any and all
purposes under the rules that apply.

EXAMINATION BY MR. ROBINSON:

Q. Would you state your name for the record?

A. Yes.

MR. CUNNINGHAM: Dave, just before we begin,
I'd like to say that Mr. Howell's testimony will be
limited to the topic of written directives and policy
manual provisions, training material or instructional
material, independent DPD research into accuracy and
some of the Board of Police Commissioners' questions in
his capacity as prime analyst with the Detroit Police
Department.

MR. ROBINSON: Okay.

BY MR. ROBINSON:

Q. Again, sir, would you give me your name?

A. Yes. Nathan Howell.

Q. And how old are you, sir?

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1 A. I am 32 years old.

2 Q. Okay. Do you have a middle name?

3 A. Yes, sir, James Lloyd.

4 Q. L-L --

5 A. L-L-O-Y-D, sir.

6 Q. Nathan James Lloyd?

7 A. Howell, H-O-W-E-L-L.

8 Q. And what is your date of birth?

9 MR. CUNNINGHAM: You don't have to give him
10 that.

11 MR. ROBINSON: He's a civilian. He's not a
12 police officer. Yes, he does.

13 MR. CUNNINGHAM: What do you need his date of
14 birth for?

15 MR. ROBINSON: It's discovery.

16 BY MR. ROBINSON:

17 Q. What's your date of birth?

18 MR. CUNNINGHAM: You don't have to tell him.

19 MR. ROBINSON: He does. He's not a cop, he's
20 not a sworn person.

21 MR. CUNNINGHAM: He's employed in law
22 enforcement and he gets the same protection.

23 MR. ROBINSON: Let's do this. Let's not put
24 it on the record but I want his date of birth.

25 MR. CUNNINGHAM: No, I'm not going to give you

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1 his date of birth.

2 MR. ROBINSON: Okay.

3 BY MR. ROBINSON:

4 Q. What's your address?

5 MR. CUNNINGHAM: No, you don't have to give
6 your home address.

7 MR. ROBINSON: If this matter proceeds to
8 trial are we agreed that on behalf of this witness that
9 the City of Detroit will accept service for any
10 appearance at trial?

11 MR. CUNNINGHAM: I'll either accept service or
12 if he's no longer employed at that point I'll provide
13 you with a last known address so you can serve.

14 MR. ROBINSON: Okay. This probably is going
15 to be an issue for the judge. There isn't any reason
16 not to have this man's address and his date of birth.

17 MR. CUNNINGHAM: I think he's entitled to the
18 same protection as a police officer. Under Kallstrom he
19 has a due process right to not have his personal
20 information --

21 MR. ROBINSON: He's a witness. Okay. But
22 that's all right.

23 BY MR. ROBINSON:

24 Q. You're currently employed with the Detroit Police
25 Department?

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1 A. Yes, sir.

2 Q. In what capacity?

3 A. I am a crime analyst for the Detroit Police Department.

4 Q. What is a crime analyst?

5 A. I work on investigations and do a lot of desktop work so
6 that the detectives can go out in the field and
7 interview witnesses out there -- so the detective can be
8 in the field doing video cameras camera scene so they
9 can look for cameras near the crime scenes. So I try to
10 take away some of the burden of that.

11 Q. How old are you?

12 A. I'm 32.

13 Q. All right. So that was kind of vague.

14 As a practical matter what does a crime
15 analyst do? What do you do when you report to work?

16 A. I work in homicide, so I work on homicide investigations
17 trying to find -- identify suspects.

18 Q. But what is it that you do? I mean you're giving me
19 general. I want specifics.

20 A. I work on the computer and look up people in Detroit's
21 internal RMS system. I also look for people involved in
22 the crime social media profiles trying to get a history
23 on the victims and who may possibly have wanted to kill
24 them.

25 Q. Okay. Again you're giving me these vague descriptions.

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1 I want specifics.

2 **A. I create --**

3 MR. CUNNINGHAM: Well, Dave, ask specific
4 questions if you want specific answers.

5 MR. ROBINSON: I'm asking him specific
6 questions.

7 BY MR. ROBINSON:

8 Q. What do you do specifically as a crime analyst? You're
9 giving me these generalized descriptions. I want
10 specifics. When you say I work on computers what do you
11 do specifically?

12 **A. As I stated earlier, I look up victims in our RMS system**
13 **trying to get --**

14 Q. So stop there.

15 **A. Um-hmm.**

16 Q. You look up victims.

17 **A. Um-hmm. Yes.**

18 Q. In the RMS system. Okay. Give me an example of that.

19 **A. So we had a homicide on Sunday and I looked up the**
20 **victim in RMS which is our Records Management System and**
21 **it provided me with several criminal reports the victim**
22 **was involved in, give me several different contacts the**
23 **victim had, and with that information I put it into a**
24 **report and provide it to the officer in charge of the**
25 **case so they can look through it and observe if there's**

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1 any domestic violence, for instance, maybe a girlfriend
2 wanted to harm him, hired someone to kill him. Maybe
3 it's a friend who they had a disagreement with that's
4 listed in the report and, so, that's something I look
5 for.

6 Q. All right. We're going to go back to that but just for
7 the record, we can put this in evidence.

8 DEPOSITION HOWELL EXHIBIT 1

9 Deposition notice

10 WAS MARKED FOR IDENTIFICATION.

11 MR. ROBINSON: Okay. I marked as Plaintiff's
12 Exhibit Number 1 the fourth re-notice of taking the
13 deposition, 30(b)(6) deposition duces tecum of the City
14 of Detroit's designate pursuant to the Federal Rules of
15 Civil Procedure 30(b)(6).

16 BY MR. ROBINSON:

17 Q. You were advised that you were to bring certain
18 documents with you to this deposition, yes or no?

19 A. **Yes. I believe those are the documents.**

20 Q. Did you bring documents yourself and did you give them
21 to Mr. Cunningham, or did Mr. Cunningham bring documents
22 and present them to you?

23 A. **I believe Mr. Cunningham printed them off the computer.**

24 Q. That's not the question. The question is: Did you
25 provide Mr. Cunningham the documents that you brought,

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1 that you were ordered to bring --

2 A. No, the documents --

3 Q. -- or did Mr. Cunningham give these documents -- acquire
4 documents?

5 A. I believe he printed them off from his computer. I
6 don't believe I brought any documents with me.

7 Q. Were you instructed to bring any documents with you?

8 A. I don't recall. I don't recall.

9 Q. What do you mean you don't recall?

10 A. I don't remember. I thought that he printed them off
11 and brought them.

12 Q. Okay. So any and all written directives -- you are not
13 here about producing all studies the Detroit Police
14 Department relied on to investigate the utility and
15 application of Data Works facial recognition company and
16 software specific to the issue of misidentification of
17 people of color prior to the initial purchase and
18 deployment of the software. You're not here to talk
19 about that; right?

20 A. Is that -- which letter is that?

21 Q. A.

22 A. Oh, okay. I'm sorry.

23 Okay. So DPD, we don't have -- conduct any
24 studies regarding that because the algorithm is actually
25 the proprietary intellectual property of Data Works so

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1 we have no way to access it.

2 Q. So you are offering testimony on Paragraph A?

3 A. Is that A or D? I don't think I'm able to because we
4 don't have any of those studies.

5 Q. What do you mean you don't have any of those studies?

6 A. The Detroit Police Department is unable to conduct any
7 of those studies because the algorithm that Data Works
8 software uses is proprietary intellectual property of
9 Data Works software.

10 Q. Okay.

11 MR. CUNNINGHAM: Let's take a break for a
12 minute.

13 You're talking about this one?

14 MR. ROBINSON: No, no, no, listen. You can't
15 take a break here.

16 MR. CUNNINGHAM: You don't have a question
17 pending.

18 MR. ROBINSON: Okay. I know -- you're --
19 don't control the deposition.

20 A. Oh, okay.

21 MR. CUNNINGHAM: He's confused. He's looking
22 at the wrong section.

23 BY MR. ROBINSON:

24 Q. You said that the DPD does not have studies; right?

25 A. Is this E I'm responding to?

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1 Q. Okay. I'm going over your testimony. Your testimony
2 was the Detroit Police Department does not have studies
3 because of the proprietary nature of the algorithms to
4 Data Works Plus --

5 A. Yes.

6 Q. -- is that what you just said?

7 A. Yes, sir.

8 Q. So there were no studies; is that correct?

9 A. **No, there are no studies as far as I'm aware of.**

10 Q. Okay. And when you talk about studies that you're aware
11 of, there are no studies that was specific to the issue
12 of misidentification of people of color prior to the
13 initial purchase and deployment of the software; is that
14 correct?

15 MR. CUNNINGHAM: I'll just object because
16 Mr. Howell is here to testify --

17 MR. ROBINSON: You're doing speaking
18 objections and you know under the Federal Court Rules
19 that's not allowed.

20 MR. CUNNINGHAM: I'm not making a speaking
21 objection.

22 MR. ROBINSON: Yes, you are. You can't do
23 that. Form, foundation, that's the objection. You
24 can't do speaking objections.

25 MR. CUNNINGHAM: Rule 30(b)(6) allows the City

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1 to designate subject matter about which somebody will
2 testify. I did that at the beginning of the deposition.
3 This question you're asking him goes outside the scope
4 of that designation. That's my objection.

5 MR. ROBINSON: Okay. That's your objection.
6 So that's like form and foundation. Okay.

7 BY MR. ROBINSON:

8 Q. So now you can answer the question.

9 **A. Can you repeat the question.**

10 MR. ROBINSON: Would you read the question
11 back.

12 (Record repeated as requested)

13 **A. Yes, I'm not aware of any of the studies.**

14 BY MR. ROBINSON:

15 Q. Specifically the issue that I just --

16 **A. Yes, sir. I'm sorry, yes.**

17 Q. In your capacity as a crime analyst do you rely on the
18 facial recognition element that is available to an
19 investigator in homicide or the Detroit Police
20 Department?

21 **A. What do you mean by rely on?**

22 Q. Do you use facial recognition in your job?

23 **A. Yes, I have used facial recognition in my job as a crime**
24 **analyst.**

25 Q. And tell me how you do that?

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1 A. You want to know how the process works?

2 Q. I want to know how you use facial recognition as a crime
3 analyst?

4 A. Okay. So I work in homicide. So if we have someone on
5 camera, a green light, for instance, shooting somebody
6 and their face is visual and it's captured on the green
7 light camera I will, if we're unable to come up with a
8 suspect through witness, talking with witnesses or other
9 means I will take a still image of the individual's face
10 from the green light camera and then I will upload it,
11 submit it into the Data Works program. From there I hit
12 the button search. It queries the image and then
13 provides me with a list of possible candidates, and from
14 this list of possible candidates I will select one if
15 one exists that is a good investigative lead. It then
16 goes to a second analyst who's also trained by the FBI.
17 That person will then look at my lead I've selected and
18 say yes or no. From there it goes to a supervisor which
19 is a sergeant or above and that individual will approve
20 the investigative lead or deny it.

21 Q. Um-hmm.

22 A. And then from there the investigative lead is provided
23 to the individual who requested it. Most of the times
24 it's the officer in charge of the case, and then from
25 there they have to do a follow-up investigation to

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1 corroborate it as it's just an investigative lead.

2 Q. Now, how long have you been a crime analyst?

3 A. I've been a crime analyst for 4 years and roughly 2 1/2
4 weeks, 3 weeks.

5 Q. And what you just described as the procedure in 2019,
6 was that the same procedure with the review?

7 A. The review process?

8 Q. Yes, by other --

9 A. I don't remember to be honest with you.

10 Q. Okay. So, now, you have received training in the use of
11 facial recognition?

12 A. Yes, sir, from the FBI.

13 Q. And did you receive any training outside of the FBI?

14 A. No, sir.

15 Q. And what did your training consist of?

16 A. It was what to look for in the still image of a face
17 when comparing it to other faces for positive lead
18 identification.

19 Q. Okay. Did you receive any understanding in that FBI
20 training of inherent biases with the use with regard to
21 facial recognition in people of color?

22 A. They taught us what to look for but I don't recall them
23 teaching us inherent bias in the course that we took.

24 Q. Did you receive any documents during that training?

25 A. Yes, I received -- because they were talking about how

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1 -- what to look for in the faces, I received
2 documentation regarding what you're supposed to look at
3 with the facial features, sir.

4 Q. And the documentation did it draw a distinction between
5 the utility of facial recognition as an identifier as it
6 relates to specifically black people or people of color,
7 yes or no?

8 A. I don't recall if it did.

9 Q. Do you still have the documentation?

10 A. I have the documentation from the FBI, yes.

11 Q. I'm going to ask that you produce that.

12 A. I believe the FBI provided it. I don't believe I'm
13 allowed to transfer that over.

14 MR. CUNNINGHAM: He signed a nondisclosure
15 agreement.

16 BY MR. ROBINSON:

17 Q. And you say you do not recall whether or not that
18 material specifically -- was specific to the utility of
19 facial recognition as it relates to the identification
20 of people of color, black people?

21 A. Yes, sir, I don't recall.

22 Q. Okay.

23 A. Sorry. Yes.

24 Q. And in your employment with the Detroit Police
25 Department as a crime analyst have you received anything

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1 from the Detroit Police Department that is suggestive of
2 the same thing that I'm asking, that is whether or not
3 facial recognition and its utility may have inherent
4 biases as it relates to, you know, identification of
5 people of color, yes or no?

6 **A. The FBI trained us legally how to run it and what to**
7 **look for.**

8 Q. You're not answering my question. I want you to answer
9 my question.

10 MR. CUNNINGHAM: He is answering your
11 question.

12 MR. ROBINSON: He's not.

13 MR. CUNNINGHAM: He is.

14 MR. ROBINSON: Read the question back.
15 (Record repeated as requested)

16 **A. No, but the FBI legally trained us on how to run facial**
17 **recognition software and what to look for in the face --**
18 **facial features. Sorry.**

19 BY MR. ROBINSON:

20 Q. Okay. Have you done any independent studies on your own
21 as it relates to the utility of facial recognition as a
22 crime analyst and the inherent biases in identifying
23 people of color, yes or no?

24 **A. I have not.**

25 Q. In your work as a crime analyst when you are going about

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1 assisting homicide investigations in -- you're working
2 on cases that involve homicides that occur in the City
3 of Detroit?

4 **A. Yes, they are only homicides in the City of Detroit,**
5 **sir.**

6 **Q. And you are developing leads, as it were, for the**
7 **homicide.**

8 You're shaking your head?

9 **A. Oh, sorry. They're called investigative leads, sir.**

10 **Q. And in the 4 years that you've acted as a crime analyst**
11 **with homicide can you give me a breakdown of the racial**
12 **demographics of persons that you have developed leads**
13 **for in homicide investigations, racial?**

14 **A. I don't know. I'd have to -- I don't know the --**

15 **Q. I'd ask you to estimate. How many cases?**

16 **A. I can't estimate. I can't remember.**

17 **Q. How many cases have you worked in? You can't remember?**

18 **A. In homicide?**

19 **Q. How many homicides have you worked on?**

20 **A. I don't know the exact number. It's a lot.**

21 **Q. Can you estimate?**

22 **A. I can't estimate. I don't want to be wrong.**

23 **Q. 1,000?**

24 **A. I don't know.**

25 **Q. 2,000?**

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1 A. I don't know, sir.

2 Q. 500?

3 A. I don't know.

4 Q. Ten?

5 A. I don't know.

6 Q. Twenty?

7 A. I can't estimate, sir.

8 Q. Are the majority of those suspects African-American or
9 white?

10 A. I don't know.

11 Q. You don't know?

12 A. I believe the majority would be African-American.

13 Q. Okay.

14 A. I believe.

15 Q. Were you at all aware in the course of your work as a
16 crime analyst for the Detroit Police Department about
17 the inherent biases as it relates to identification of
18 people of color and the utilization of facial
19 recognition, yes or no?

20 A. No, I don't know. I don't believe so.

21 Q. I take it you never even heard of that; right?

22 A. I believe I heard of it but to my knowledge I don't know
23 if it exists within our Data Works program.

24 MR. ROBINSON: I think it's the court.

25 (An off the record discussion was held)

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1 BY MR. ROBINSON:

2 Q. What do you mean you don't know if it exists in the Data
3 Works program?

4 A. **Their algorithms are proprietary intellectual property**
5 **so I have no way of knowing.**

6 Q. What does that mean?

7 A. **I don't know. I don't know how the algorithms function.**
8 **I have no idea how they developed their program.**

9 Q. And has the Detroit Police Department brought to your
10 attention the potential concern that facial recognition
11 processes have inherent biases as it relates to
12 identifying black people or people of color, yes or no?

13 A. **I have not seen any documentation from DPD.**

14 Q. Now, what materials did you review in order to prepare
15 for your deposition?

16 A. **The facial recognition policy.**

17 Q. Okay. And did you bring that -- is that with you?

18 A. **Yes.**

19 Q. Okay. May I see that?

20 A. **Yes, sir.**

21 MR. ROBINSON: Can we mark these.

22 DEPOSITION HOWELL EXHIBIT 2

23 DPD Facial Recognition Direct Number 307.5

24 DEPOSITION HOWELL EXHIBIT 3

25 Training Directive Number 19-07, Use of Traffic

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1 Light-Mounted Cameras and Facial Recognition
2 Technology

3 WERE MARKED FOR IDENTIFICATION.

4 BY MR. ROBINSON:

5 Q. I'm going to hand you what has been marked as
6 Plaintiff's Exhibit Number 2.

7 Can you identify that for the record?

8 A. Yes.

9 Q. What is that?

10 A. This is the facial recognition policy from September
11 19th, 2019.

12 Q. And what is the purpose of that?

13 A. To define when -- how to use facial recognition in
14 investigation.

15 Q. Is that something that you have to rely on in your job
16 as a crime analyst?

17 A. Yes, the policy when using facial recognition is
18 something I rely upon.

19 Q. Okay. And you've been trained in that policy?

20 A. Yes, sir, I've reviewed it and it's been communicated to
21 me many times.

22 Q. And is there anything in that policy that educates you
23 or trains you on the inherent biases of facial
24 recognition as it relates to identification of people of
25 color, yes or no?

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1 A. I don't believe -- to my knowledge it's not inherent
2 bias outlined within the -- sorry, outlined within the
3 policy.

4 Q. There's nothing in the policy that educates you or
5 trains you on the inherent biases?

6 A. As I recall, I don't believe there's any mention, no.

7 Q. I'm going to hand you Exhibit Number 3. Can you
8 identify that for the record?

9 A. Yes, this appears to be the first instance of the facial
10 recognition policy from April 9th, 2019.

11 Q. Okay. And can you tell me what that document is?

12 A. Yes, it provides when to use facial recognition
13 software.

14 Q. And you identified that as a Training Directive?

15 A. It appears to be a, yes, Training Directive, sir.

16 Q. And it is a document you are familiar with as a crime
17 analyst?

18 A. Yes, sir.

19 Q. Is there anything that would educate you or train you as
20 it relates to facial recognition and inherent biases in
21 identifying people of color?

22 A. I don't believe so, no.

23 Q. Now, what is the date of the -- effective date of the
24 training policy of facial recognition in Exhibit
25 Number 2?

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1 A. It is September 19th, 2019.

2 Q. And is that when the first facial recognition policy was
3 enacted or became effective with the Detroit Police
4 Department?

5 A. It would be the first document you have there,
6 April 4th -- or sorry, April -- does that say 9th?
7 Yeah, April 9th.

8 Q. So what is the difference between the information
9 contained in Exhibit 3 versus Exhibit 2?

10 A. This one expands upon the policy in here, and this one
11 is much more encompassing of how to use, when to use the
12 facial recognition in an investigation.

13 Q. Can you be more specific in terms of --

14 A. It offers --

15 MR. CUNNINGHAM: Hold on. Let him finish his
16 question.

17 A. Sorry, sorry.

18 BY MR. ROBINSON:

19 Q. -- in detail.

20 A. It offers more definitions regarding facial recognition,
21 such as who Data Works is, biometrics are, the examiner
22 defines that there needs to be advanced training, things
23 of that nature. And also offers what crimes facial
24 recognition can be run upon.

25 Q. The description that you gave earlier about the

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1 redundancy of checking by other members, supervisors,
2 et cetera -- you understand what I'm saying?

3 **A. Yes, when I outlined the process.**

4 Q. Is that contained in the new policy?

5 **A. I believe so. I recall -- yes, sir.**

6 Q. Okay. When you look at Exhibit Number 3 is that process
7 contained in the Training Directive at all?

8 **A. I don't believe that process is contained in Exhibit**
9 **Number 3, sir.**

10 Q. Prior to September of 2019 what I have referred to as
11 redundancy, that wasn't what was in practice prior to
12 the new policy being issued in 2019, in September
13 of 2019; is that correct?

14 **A. That's correct, sir.**

15 Q. And can you give me any other specific distinctions
16 between the facial recognition policy that was effective
17 in September of 2019 versus the policy that was enacted
18 prior to the Training Directive?

19 **A. This one?**

20 Q. Yes.

21 **A. It provides prohibited uses of facial recognition**
22 **software, such as surveillance, using it as mobile**
23 **facial recognition, live stream or recorded videos and**
24 **predictive analysis, so it prohibits those uses in the**
25 **one from September as opposed to this one not mentioning**

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1 it. So that would be an example.

2 Q. What else? Describe in more detail.

3 A. It gives definition of personal identification
4 information, identifies what SNAP is, the Statewide
5 Network of Agency Photos, discipline of misuse of facial
6 recognition software, mentions investigative lead and to
7 do a supplemental incident report for that investigative
8 lead if it's a positive lead.

9 Q. Again, what you're talking about is not contained in --

10 A. No, sir. Those are the examples.

11 THE COURT REPORTER: Is not contained in the
12 what? You really have to let him finish his question.

13 THE WITNESS: I'm sorry.

14 THE COURT REPORTER: What you're talking about
15 is not contained in the, and, I'm sorry, I didn't hear
16 you.

17 BY MR. ROBINSON:

18 Q. Is not contained in Exhibit 3; is that correct?

19 A. Yes, sir.

20 Q. Okay. Can you continue --

21 A. Yes, sir.

22 Q. -- with more distinction.

23 A. There's government and oversight responsibilities
24 outlined in here in the newer one; the weekly report to
25 the Board of Commissioners which is a public record; the

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1 fact that the OPC has to enact all policy changes,
2 security and maintenance of the facial recognition.
3 That's it.

4 Q. So the difference between the Detroit Police Department
5 facial recognition policy and the Training Directive as
6 far as its utilization and implementation in the Detroit
7 Police Department can you tell me how it is distributed
8 or disseminated?

9 A. I don't remember to be honest with you.

10 Q. In July of 2019 were you working as a crime analyst?

11 A. Yes, sir.

12 Q. Did you have any opportunity to review any -- anything
13 in connection with the arrest or let's say facial
14 recognition application leading to the arrest of Michael
15 Oliver?

16 A. No, sir, I never worked on it.

17 Q. Do you know anything about Mr. Oliver's arrest? Do you
18 know anything about Mr. Oliver?

19 A. Insofar as?

20 Q. Anything.

21 A. Only from what I read in the newspapers.

22 Q. Okay. What did you read in the newspapers?

23 A. I read it was a larceny of a phone case or something
24 like that, or of a phone device perhaps that was damaged
25 and the still photo they used came from a cell phone, I

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1 believe. I don't remember the officer in charge, and I
2 think the -- the discrepancy came up with tattoos I
3 think it was as it said in the report, the newspaper
4 report. That's as much as I can remember.

5 Q. When did you read the newspaper?

6 A. It was on the Internet. I don't recall the exact date,
7 but it was --

8 Q. Recently?

9 A. No, no, not recently, sir.

10 Q. When?

11 A. I don't know. A few months ago.

12 Q. Did you do so in anticipation of this deposition?

13 A. Yes. I wanted to at least have a general idea of the
14 incident in question.

15 Q. In your FBI training you would have discussed and been
16 trained on the quality of what I believe to be probe
17 images?

18 A. Yes, sir.

19 Q. Can you discuss that?

20 A. Yes. From what I can recall, they most often would tell
21 us that illumination, so the lighting of the photo was a
22 big factor. Also sometimes the background could cloud
23 the image maybe sort of. But as far as I can recall it
24 was also the distance, so how far or close to the camera
25 that the face was along with any obstructions on the

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1 face. So glasses, a face mask, for instance, a hat,
2 even, would affect the image quality or probe when
3 utilizing it for facial recognition purposes.

4 Q. And what would be the concern from your perspective as a
5 crime analyst as relates to using a less than stellar
6 probe image?

7 A. You would either receive no results, or the program
8 wouldn't accept the image because it can't as far as I'm
9 aware read that there's a face there. Again, I'm not
10 sure how the algorithm works and functions to define a
11 face, but -- or you would just get a bunch of candidates
12 and when you looked through them, you know, there's no
13 good investigative lead.

14 Q. Is there a potential that you might get the wrong image
15 or the wrong candidate, so to speak?

16 A. No, because it's an investigative lead and it has to go
17 through those steps.

18 Q. I'm not talking about that. I'm talking about the
19 product of what is produced from the probe image.

20 MR. CUNNINGHAM: That's not a question.

21 MR. ROBINSON: Yeah, it is a question.

22 MR. CUNNINGHAM: That was statement.

23 MR. ROBINSON: That is a question.

24 BY MR. ROBINSON:

25 Q. The product that you would get from the probe image --

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1 MR. CUNNINGHAM: Wait for him to ask a
2 question. That was not a question, that was a
3 statement. You said I'm talking about this and that's
4 what you said. That wasn't a question.

5 MR. ROBINSON: You're not listening to what I
6 said. Okay. I said is it a concern --

7 BY MR. ROBINSON:

8 Q. Okay.

9 -- with regard to the quality of the probe
10 images that you might get the wrong product from what is
11 spit out from the facial recognition process?

12 **A. No. As we go through redundancy --**

13 Q. I'm not talking about the redundancy. The redundancy
14 comes after you get the product in the facial
15 recognition. Okay? Forget about the background.

16 Do you understand what I'm saying now? So is
17 there a concern that if you're putting in a bad image
18 you may get the wrong suspect, that the -- you put in a
19 probe image, right, into the facial recognition
20 software?

21 **A. Yes, sir.**

22 Q. What comes back?

23 **A. Several potential candidates.**

24 Q. Okay. So is the concern that if you put in a bad image
25 the accuracy of your candidates may be compromised?

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1 A. Yes.

2 Q. Stop there.

3 MR. CUNNINGHAM: No, no, no, if you have more
4 to say, say it.

5 A. Yes, there is a concern with a poor image quality you
6 may receive candidates that are lacking in their
7 potential to be a good investigative lead, sir.

8 BY MR. ROBINSON:

9 Q. All right. Okay. Cropping an image, that would be a
10 concern as well, if you cropped an image, let's say?

11 A. No, sir. You have to -- in order to isolate the face
12 you crop the image and then you upload it as a probe to
13 the Data Works program.

14 Q. What if you cut off part of the image when you crop it?

15 A. You would not.

16 Q. Well, you should not or you would not?

17 A. You would not.

18 Q. Okay. What if you do, should you not use a cropped
19 image that cuts off part of the --

20 A. It would be depending on a case-by-case basis.

21 Q. What do you mean?

22 A. I mean you would have to look at it as a case-by-case
23 basis regarding --

24 Q. I take a picture of you. You got your hair --

25 MR. CUNNINGHAM: Were you done with your

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1 answer?

2 **THE WITNESS: I was.**

3 **MR. CUNNINGHAM: Okay.**

4 **BY MR. ROBINSON:**

5 **Q.** -- and I crop the top of your head off, would you use
6 that image, yes or no?

7 **A. What part of my head?**

8 **Q.** Your hair?

9 **A. So here?**

10 **Q.** Um-hmm.

11 **A. Yes, you could use that image.**

12 **Q.** You can?

13 **A. Yes, sir. We're told not to look at hair styles as they**
14 **can change on an individual.**

15 **Q.** Okay. If I crop off your forehead you wouldn't use that
16 image?

17 **A. I don't believe I would use an image without a forehead,**
18 **sir.**

19 **Q.** Why not?

20 **A. It would obscure -- I mean the face, you would be taking**
21 **away part of the face to use as comparison to the**
22 **candidates you receive.**

23 **Q.** And what with regard to essentially -- what concern
24 might you have in that regard?

25 **A. You would like every probe image to be straight on from**

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1 that angle. However, not all probe images are from
2 straight on so you do express some concern with images
3 that are, as an example, top down more, so more from
4 like an angle up here or a lower angle. So there's a
5 little bit of concern when selecting a probe image
6 that's at an angle.

7 Q. In the Training Directive in Exhibit 3 which you say was
8 in existence prior to Exhibit 2, does the Training
9 Directive go into the image quality?

10 A. **No, sir, it does not, the Training Directive does not.**

11 Q. And, then, are the detectives who are investigating
12 crimes, were they provided with that Training Directive?

13 A. **I don't know.**

14 Q. Okay. Do you know how that distribution takes place
15 within the Detroit Police Department?

16 A. **No, I don't know, sir.**

17 Q. Is it available --

18 A. **Yes, sir.**

19 Q. -- to give an officer?

20 A. **Yes, sir, it's on the intranet, I believe so.**

21 Q. Okay. So is there a date on the Training Directive?

22 A. **April 9th, 2019, sir.**

23 Q. Okay. So, between April 9th and September of 2019 the
24 only thing that was available as it relates to any sort
25 of training or procedure related to the Detroit Police

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1 Department's utilization of facial recognition is
2 contained in those two exhibits in Exhibit 2 --

3 **A. Exhibit 2 or 3.**

4 Q. -- or 3, I'm sorry.

5 **A. I believe so.**

6 Q. Did you bring any documents with you today?

7 **A. No, sir.**

8 Q. Your attorney indicated you would be able to give
9 testimony on item E in the -- in the request for your
10 testimony today, item E: Any and all independent DPD
11 research into the accuracy in identifying persons of
12 color?

13 **A. Yes.**

14 Q. Did you bring anything with you to talk about that?

15 **A. No, sir, I did not.**

16 Q. Are you able to talk about that, independent DPD
17 research into the accuracy in identifying persons of
18 color, yes or no?

19 **A. As far as I know because it's proprietary, like I said**
20 **before the algorithm that is used by the Data Works**
21 **program, there's no independent DPD research because**
22 **it's their intellectual property.**

23 Q. Okay. I'm trying to -- I understand what you're saying.
24 It's that organization's proprietary property. And how
25 does that limit the DPD with its concern whether or not

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1 there is inherent bias in putting into practice a
2 product that the DPD purchases for the purposes of
3 finding suspects?

4 **A. We don't have access to their --**

5 Q. I'm not asking about that. That's not a question having
6 access to their stuff, their proprietary stuff. I'm
7 asking whether or not there's any independent DPD
8 research into the accuracy in identifying persons of
9 color, yes or no?

10 **A. I don't know if we conducted any, no.**

11 Q. Okay. F: Any and all Board of Police Commission
12 transcripts of Twanny Petty or documents provided by her
13 or her agents or other advocates opposing the use of
14 facial recognition in the City of Detroit on the basis
15 of the accuracy of identifying persons of color.

16 Did you bring anything like that here to this
17 deposition?

18 **A. The BOPC, there's a link on our website for any BOPC**
19 **reports. I don't have any --**

20 Q. Did you bring it to this deposition? That's what I'm
21 asking --

22 **A. I don't have any --**

23 Q. -- yes or no. Did you bring it to this deposition?
24 It's a no.

25 **A. May I finish, please.**

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1 **I don't have any with me, sir, no.**

2 Q. Okay. Because you were asked to bring the stuff with
3 you. Your attorney said that you can talk about this
4 stuff.

5 MR. CUNNINGHAM: He just told you it's
6 publicly available.

7 MR. ROBINSON: Okay.

8 BY MR. ROBINSON:

9 Q. What can you tell me about Twanny Petty or the documents
10 that she provided?

11 **A. I don't -- I can't tell you anything about Twanny Petty.**

12 Q. Do you know her?

13 **A. I don't know Twanny Petty, sir.**

14 Q. Have you ever met her?

15 **A. I don't believe so.**

16 Q. Have you ever been to a Board of Police Commissioner
17 meeting during the discussion of facial recognition?

18 **A. I have not, sir.**

19 Q. G: Please provide any written documents or testimony
20 demonstrating public comments the City received before
21 or just after adopting the Data Works technology.

22 Did you bring any of that material today?

23 **A. No, sir, I don't have any of those -- the documents and**
24 **I don't know if they exist.**

25 Q. And you can't give me any testimony on that, either, can

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1 you?

2 **A. Is that a question?**

3 Q. Yes.

4 **A. Oh. No, I don't believe I'm**

5 MR. ROBINSON: So what is the name of the
6 other individual that's supposed to --

7 MR. CUNNINGHAM: I believe Trisha Stein is
8 who --

9 MR. ROBINSON: Trisha.

10 MR. CUNNINGHAM: Trisha.

11 BY MR. ROBINSON:

12 Q. Do you know Trisha?

13 **A. Stein?**

14 Q. Yes.

15 **A. No, sir.**

16 MR. ROBINSON: And what's her position?

17 MR. CUNNINGHAM: She's currently the chief of
18 staff of the mayor.

19 MR. ROBINSON: How do you spell her name?

20 MR. CUNNINGHAM: Her first name is

21 T-R-I-S-H-A, last name S-T-E-I-N.

22 BY MR. ROBINSON:

23 Q. What is your educational background?

24 **A. I have a Bachelors in sociology from Albion College.**

25 Q. What college?

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1 A. Albion College.

2 Q. When did you receive that?

3 A. When did I what?

4 Q. When did you receive that degree?

5 A. I graduated in 2012.

6 Q. Okay. In what area?

7 A. That's in sociology.

8 Q. Okay. And any further advanced degrees?

9 A. Yes, I have a Masters of Science in Criminal Justice
10 from Wayne State University.

11 Q. Um-hmm. Anything else?

12 A. I don't have any other educational degrees than that.

13 Q. Do you have any other training in any other areas of --
14 any other area or vocation?

15 A. I have training in using the Shot Spotter technology
16 that the Detroit Police Department uses.

17 Q. Shot Spotter?

18 A. Shot Spotter.

19 Q. Tell me what that is.

20 A. Shot spotter are acoustic sensors placed throughout the
21 City that capture gunshots, essentially, and then I can
22 go in there and read through the I think they're called
23 reports or respond IDs of those incidents and use them
24 in conjunction with our homicide investigations.

25 Q. Tell me: Are these some mechanical devices or

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1 something, Shot Spotters?

2 **A. I believe they are placed on light poles and hear gun**
3 **shots. I don't know exactly how they work, but I know**
4 **they're very useful in identifying number of shots**
5 **fired, approximate location and time.**

6 Q. Any other training?

7 **A. I'm sorry?**

8 Q. Any other training?

9 **A. I can't recall.**

10 Q. Now, tell me about the scoring of what is produced from
11 the probe image? Do you understand what I'm saying, the
12 scoring?

13 **A. Yes, sir.**

14 Q. Tell me about that.

15 **A. I believe that each candidate that comes back in**
16 **response to a probe image is scored.**

17 Q. Um-hmm.

18 **A. However, I don't know, and I hate to reference it, how**
19 **the algorithm works, so I don't know how the program**
20 **comes up with the score when it's given the candidates.**

21 Q. Now, you literally, as the crime analyst, you would
22 review, let's say, the green light image or a green
23 light video or whatever?

24 MR. CUNNINGHAM: Talking about a probe image.

25 MR. ROBINSON: No.

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1 BY MR. ROBINSON:

2 Q. You would review a particular green light video, let's
3 say?

4 A. Yes, I review -- yes, green light images.

5 Q. And if you saw someone, you know, an image you would
6 stop the video and then create a still picture of it?

7 A. If they're a suspect in --

8 Q. If they're a suspect?

9 A. If they're a suspect in a part 1 violent crime or --

10 (The witness and Mr. Robinson speaking
11 simultaneously)

12 Q. That's what you would do?

13 A. Yes, if we're

14 Q. And would you, you individually take a probe image and
15 input that image into the facial recognition system?

16 A. Yes, sir.

17 Q. In the Detroit Police Department?

18 A. Yes, sir.

19 Q. Where is that system?

20 A. Its physical location?

21 Q. Yes.

22 A. I don't know. It's Data Works system.

23 Q. So you have a computer or something, I take it?

24 A. Yes, sir.

25 Q. And you would just upload it, the image, is that --

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1 A. Yes, sir.

2 Q. -- accurate?

3 Other than uploading the image is there
4 anything else that you would have to do in order to
5 properly process that program?

6 A. Prior to uploading it or --

7 Q. Yes, prior to uploading it.

8 A. It has to be -- just the face of the suspect? Other
9 than just selecting just the face and then uploading it
10 there's nothing else I would need to do to that image.

11 Q. Okay. Once you've got a suspect back what would you --
12 you would get the scoring information from Data Works,
13 is that how that happens?

14 A. They would provide me with a list of candidates and then
15 underneath those candidates there's -- the scoring
16 system is.

17 Q. Can you describe that scoring system?

18 A. Don't know exactly how they score them. However, I know
19 that we're told to ignore the scoring system and use the
20 training we received from the FBI in order to select a
21 good investigative lead from the list of candidates that
22 Data Works provides.

23 Q. Can you repeat that?

24 A. Yes, sir. So the scoring system does exist underneath
25 the candidates. However, I don't know how the program

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1 scores those candidates, but we're told to ignore that
2 scoring system and use the training we have received
3 from the FBI in order to select or not select a good
4 viable investigative lead.

5 Q. And who told you to do that?

6 A. Stephen Lamoreaux when I asked him how -- if we did any
7 studies but then he went into the whole intellectual
8 proprietary and said that we don't do it because of the
9 intellectual proprietary of the algorithm and we're told
10 to use our training.

11 Q. Who is Stephen -- what's his last name?

12 A. I don't know how to spell it and I hope I'm pronouncing
13 it correctly, it's Lamoreaux. He's a project manager
14 and analyst specialist at the Crime Intelligence Unit.

15 Q. And prior to working for the Detroit Police Department
16 where were you employed?

17 A. I was working at Wayne State Center for Urban Studies
18 and Jefferson East, Incorporated.

19 Q. What did you do for Wayne State?

20 A. For Wayne State I worked as a -- I can't recall the
21 exact title of my position, but I worked in the
22 CompStat, Public CompStat Facing Department, I guess,
23 and I would create CompStat reports and attend community
24 meetings where law enforcement personnel would be
25 present and go through crime in that specific area.

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1 Q. And from what period to what period did you have that
2 job?

3 A. Oh, geez. It was -- I held that position for 1 year
4 and, so, I want to say July roughly -- sorry, July 2017
5 to July 2018ish.

6 Q. You mentioned another job. What was that?

7 A. Jefferson East, Incorporated. It's a nonprofit
8 organization that focuses on rebuilding the community
9 along the Jefferson corridor and the Warehouse District
10 in the I think it's like the 7th precinct area.

11 Q. What did you do prior to that job and your job at Wayne
12 State?

13 A. I was an AmeriCorps volunteer through Wayne State's
14 Center for Urban Studies doing the AmeriCorps work
15 there. I was tasked with victim hardening practices, so
16 making people less likely to become victims of crime
17 through our community outreach.

18 Q. How long did you do that?

19 A. That was prior to Wayne State and that was a stipend-
20 bound volunteer position.

21 Q. Did you have a position of employment that you got paid
22 for prior to that?

23 A. Oh, geez. I worked at Pet Supplies Plus for 3 months I
24 think prior to that.

25 Q. Okay. And what did you do prior to that?

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1 A. Prior to Pet Supplies Plus. I was unemployed for I

2 believe almost 10 months I want to say prior to that.

3 Q. Okay. Prior to that what other jobs have you ever held

4 that was, you know, where you could call it a

5 substantial employment position?

6 A. I was a desktop investigator for Robison Group.

7 Q. For what?

8 A. Robison Group over in Troy.

9 Q. What is a desktop -- desktop what?

10 A. Investigator.

11 Q. What does a desktop investigator do?

12 A. I worked on the computer on a lot of insurance fraud

13 cases essentially.

14 Q. How long did you do that?

15 A. Oh, geez. I don't remember how long, but I know it

16 wasn't a year. I know it wasn't a year. It was shorter

17 than a year.

18 Q. Prior to that?

19 A. I was a project manager with Marketing Associates which

20 is now called OneMagnify. I worked there for 4 years

21 and I was a project manager.

22 Q. Project manager, what sort of projects were you

23 managing?

24 A. I was on the Ford Commercial Connection account. And,

25 so, I helped manage a lot of their direct mail pieces,

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1 emails out to the dealerships, Ford dealers.

2 Q. You did that for how long?

3 A. I believe it was 4 years.

4 Q. Okay. Where did you graduate from high school?

5 A. I graduated from Berkley High School.

6 Q. When was that?

7 A. 2008.

8 Q. Are you married?

9 A. I am married, yes.

10 Q. What does your wife do?

11 A. My wife where I met her still works at OneMagnify.

12 Q. Do you have children?

13 A. I do not have children.

14 Q. Andrea Tucker, are you familiar with that person?

15 A. I don't remember Andrea Tucker. I should be, I think,

16 but I don't remember who she was.

17 Q. Okay.

18 A. Oh, is she one of the homicide victims? I don't recall,

19 though.

20 Q. She's a homicide victim, yes.

21 A. Okay, yes, I recall that case. I know -- I think that

22 that case was the one I had my photo taken and it's on

23 Facebook, I believe.

24 Q. Okay. What did you do in connection with her murder?

25 A. I assisted in finding out a possible suspect for that

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1 homicide.

2 Q. What specifically did you do?

3 A. I looked at the boyfriend, her boyfriend's on computer
4 prison record and looked at his contacts that he had
5 through the Michigan Department of Corrections.

6 Q. Can you be a little more descriptive? Once you looked
7 at that what did you do with it?

8 A. I looked at his people who had came to visit him in
9 prison.

10 Q. Um-hmm.

11 A. And observed that his son whose name I can't recall,
12 unfortunately, had come to visit him in prison I believe
13 a couple times, and from there provide the information
14 to the officer in charge of the investigation of who
15 came to visit him in prison, his son, and what he -- who
16 he was.

17 Q. Once you developed that information and turned it over
18 to the detectives --

19 A. Yes, sir.

20 Q. -- did you have any other -- did you do anything else
21 with regard to that case other than what you just
22 indicated?

23 A. Yes. I tracked the suspect vehicle on the green light
24 cameras and license plate reader systems as it drove
25 towards the crime scene, away from the crime scene, and

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1 around the Greater City of Detroit.

2 Q. And how were you instrumental in catching that crook?

3 A. After further investigation by -- I'm on the Eastern
4 Homicide Squad, so after further investigation by our
5 squad we developed the son from the visits in prison as
6 a viable suspect and simply because I guess I was the
7 one who helped provide the information to the officer in
8 charge that's how I became the -- I'm sorry, I forgot
9 what words you used, the individual who helped close the
10 case.

11 Q. License plate reader?

12 A. Yes, sir.

13 Q. What is that?

14 A. License plate reader is a, I believe it's a camera that
15 captures license plates and then gives you the --
16 because they're placed throughout the city so it
17 provides you with the location, date, time, license
18 plate of the vehicle as it passes by.

19 Q. So what location did you read the license plate in order
20 to lead you to this son who was the suspect?

21 A. It was I believe Seven Mile and Kelly area on the east
22 side.

23 Q. What led you to that?

24 A. The homicide occurred north of there. I can't recall
25 the exact street where she was murdered, but it occurred

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1 north of there off of Kelly and that's the closest
2 license plate reader to the homicide scene, I believe,
3 so

4 Q. So this is kind of like random?

5 A. Well, it's how an investigation works. We try to look
6 at the resources I have available to me close to the
7 homicide scene, and that happened to be a good resource.

8 Q. Um-hmm. Other than green lights, social media -- you
9 look at social media?

10 A. Yes, sir.

11 Q. Okay. You look at -- what else do you look at?

12 A. I look at green lights, social media, the license plate
13 readers -- they're technically separate than the green
14 lights -- Shot Spotter, and previous, previous reports
15 of the victims, witnesses, suspects as well are
16 utilized. There's other ones I'm sure but I can't
17 recall what they are.

18 Q. How did you come to be employed by the Detroit Police
19 Department?

20 A. I applied back when I was still working at Wayne State
21 and Jefferson East and took a written test and then was
22 selected -- took a written test and then took an essay
23 test and then had a, I guess an interview, but it was
24 three people. Kind of like an oral board interview, and
25 then from there was put into the pool of potential

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1 candidates and was I believe graded high and, so, I was
2 selected from that pool.

3 Q. It was a crime analyst position you were applying for?

4 A. Yes, sir.

5 Q. So other than your Masters Degree in criminal justice
6 had you had any other experience in law enforcement?

7 A. The CompStat position I had wasn't law enforcement from
8 a -- not with the law enforcement agency, mind you, but
9 from a law enforcement perspective with regards to
10 making the community safer.

11 Q. What did you do to make the community safer?

12 A. We held meetings with residents of the community and the
13 Detroit Police Department personnel present and we would
14 advise them on the crime happening in the area, so we
15 sort of gave them the hot spot areas in their location
16 and then would advise them of the dates and times those
17 crimes were occurring and give them sort of assistance
18 on what to do in certain scenarios perhaps, like when
19 you were leaving your car somewhere we gave them the
20 wheel wells to advise them not to -- not wheel wells,
21 the wheel lock -- steering wheel lock devices so that
22 their car would be less likely to be targeted by someone
23 trying to steal a car, for instance, things of that
24 nature.

25 Q. Okay. Your Facebook post or the Facebook post says

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1 Analyst Howell was able to identify key evidence that
2 supported the defendant's involvement in this crime.

3 What key evidence?

4 A. That would be the license plate reader hits from that
5 Seven Mile and Kelly LPR location near the homicide
6 scene along with the actual Project Green Light video of
7 the car utilized by the suspect driving towards the
8 homicide scene, away from the homicide scene and then
9 actually getting out of the vehicle on another camera
10 and removing a paper bag from the back seat that had
11 covered up the rear passenger side broken window and
12 getting back in the car and tracking it to the arson
13 site where the car ultimately was burned.

14 Q. Facial recognition had nothing whatsoever to do with
15 this?

16 A. No, sir.

17 Q. Okay. When was this?

18 A. I apologize, I work on a lot of homicide cases. It was
19 last year and, I'm sorry, I don't recall the actual
20 month. I have not reviewed that case in --

21 Q. Have you had to testify in court?

22 A. I have not testify in court to that case yet, sir.

23 Q. Do you testify in court?

24 A. I have testified one time in court.

25 Q. And what did you testify about?

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1 A. I testified to the tether points or hits of a victim.

2 Q. Tell me about the tether points. What are you talking
3 about?

4 A. Sorry. So the victim -- well, any individual can be
5 placed on a tether for a crime as the court sees fit,
6 and our victim was placed on a tether, and we used the
7 points, or, actually, I should say the family used the
8 points to send officers to a location where he was,
9 where the tether points were saying he was and they
10 located his body at that location at the time deceased,
11 and from there we can then request additional tether
12 points. I don't recall the court that he was on
13 probation or parole with, but we can get the tether
14 points back and then track his movements prior to his
15 death.

16 Q. So that's one of the other tools I guess that you have
17 available, you can check points?

18 A. Yes, sir.

19 Q. Okay. How are you accessing these tether points?

20 A. We have to request tether points from the Wayne County
21 system and the -- there's other ones we can access on
22 our own through Smart View and I have a log-in for that.

23 Q. Where is your office?

24 A. I am located on the 5th floor of the Headquarters off of
25 Michigan and Third. The address is 1301 Third Street.

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1 Q. How do you interact with the detective once you've
2 turned over your findings?

3 **A. Do you mean like in person?**

4 Q. Yes.

5 **A. In person.**

6 Q. Okay. So does the detective say -- after you gave the
7 detective something and they come back to you and say we
8 want you to do this, do that, something like that?

9 **A. Yes, sir.**

10 Q. Have you ever had to contact Data Works Plus for
11 anything?

12 **A. No, I have not.**

13 Q. How long was your training with the FBI for facial
14 recognition?

15 **A. I don't remember to be honest. It was a while ago.**

16 Q. When?

17 **A. I think it was about 2 years ago, sir.**

18 Q. Okay. And prior to your training with the FBI did you
19 work as a crime analyst in the Detroit area?

20 **A. Yes, sir.**

21 Q. Detroit prior to your training with the FBI 2 years ago
22 was utilizing facial recognition; right?

23 **A. I believe so, sir.**

24 Q. Okay. Did you use facial recognition as a crime analyst
25 prior to your training with the FBI?

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1 A. I believe so.

2 Q. Okay. So you probably would have been using it for at
3 least 2 years prior to your training because you were
4 there for 4 years?

5 A. I don't believe I had access or a log-in -- I don't
6 recall when I got a log-in, but I know I didn't use it
7 at first because there's only a few individuals that
8 used it.

9 Q. Who else?

10 A. The one I recall is Peter Hokich, but I don't remember
11 the other ones because I believe they left.

12 Q. Who are the other crime analysts that you work with?

13 A. I work in homicide and they are Nadia Dixon.

14 Q. Does she work in homicide also?

15 A. Yes. Everybody I'm about to name works up in homicide.

16 Christopher Magnin, Maloch Sarohr, and
17 Christian Kerr.

18 Q. And they all do the same job as you do?

19 A. Yes, sir, they're all crime analysts.

20 Q. And are there crime analysts that work in other
21 department units like maybe rape or domestic violence?

22 A. Yes, sir.

23 Q. Okay. Now, any training that you had, or received,
24 rather, to be a crime analyst, would that have been just
25 on-the-job training?

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1 A. I do recall going to courses Foundations of Intelligence
2 Analysts Training while at DPD. That's the one that I
3 can recall that I've attended.

4 Q. Prior to that did you know anything about being a crime
5 analyst?

6 A. Only from what I learned at Wayne State when I was doing
7 the CompStat work.

8 Q. Tell me a little bit more about the CompStat work.

9 A. So we would analyze the crimes for their time of
10 occurrence and location, so somewhat spatial and
11 temporal analysis, to figure out areas to notify the
12 residents about. That would be, you know, times there
13 were dangerous to go to this area or visit this store
14 because it's within that hot spot. So that was mainly
15 that focus of crime analysis.

16 Q. Okay. Now, I asked you earlier about how many cases
17 that you have worked on and you said that you don't
18 recall.

19 A. I don't remember how many.

20 Q. Is it fair to say that it was numerous, it has been
21 numerous?

22 A. Numerous is a fair assessment.

23 Q. And you think you did indicate that while you don't
24 recall the specifics of the demographics so to speak,
25 you admit that the majority of the suspects that you are

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1 involved with are African-American?

2 **A. I believe I said that, yes.**

3 Q. Can you give me a percentage?

4 **A. I wouldn't unfortunately be able to give a percentage,**
5 **only that the, what I said before, most would be.**

6 Q. And, again, these are crimes of homicide that are
7 restricted to the City of Detroit?

8 **A. Yes, sir.**

9 Q. Do you know the population racial between
10 African-Americans and white people in Detroit?

11 **A. I do not, sir. Sorry.**

12 Q. How often do you use facial recognition?

13 **A. I can't give a percentage or a number. It's not -- it's**
14 **100 percent not every case, I can tell you that much,**
15 **but I don't know -- I can't give a percentage,**
16 **unfortunately.**

17 Q. Do you know why the facial recognition systems are
18 inherently bias with relationship to people of color?

19 **A. I don't know why.**

20 Q. As a crime analyst if, in fact, facial recognition
21 systems are inherently bias as relates to the
22 identification of African-Americans or people of color,
23 does that concern you?

24 **A. I've been trained by the FBI. It does not concern me as**
25 **I have training on how to utilize it effectively and I**

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1 believe that would prevent the bias from occurring.

2 Q. If you don't know why the facial recognition systems are
3 inherently bias and your totally trusting in the FBI but
4 you received no training from the FBI with regard to the
5 inherent biasness of facial recognition systems; right?

6 A. I trust my training.

7 Q. You trust your FBI?

8 A. Yes, sir.

9 Q. Okay. These scores you say you ignore or you've been
10 told to ignore, did you from the beginning always ignore
11 the scores?

12 A. I believe so because they're not -- I don't want to look
13 at them and just assume, I want to use the training I
14 have received.

15 Q. Hmm?

16 A. I want to use the training I received and I myself be
17 the one who says yea or nay on the candidates.

18 Q. Do you know Officer Bussa or Bussa?

19 A. I don't know that officer.

20 Q. You probably don't know the particular algorithm that
21 Data Works uses; right?

22 A. I'm not familiar with it, no.

23 Q. Are you familiar with Robert Williams?

24 A. No, I'm not familiar with Robert Williams. Is that the
25 Shinola incident?

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1 Q. Um-hmm.

2 **A. I read that one in the paper, online.**

3 Q. Since either of the cases of Robert Williams or my
4 client, Michael Oliver, incidents, have there been any
5 changes that you know of in the utilization of facial
6 recognition in the Detroit Police Department other than
7 the policy in September?

8 **A. When did the incident occur? I don't recall, the**
9 **Michael Oliver one.**

10 Q. July of 2019.

11 **A. No, I believe this would be the newest, the one**
12 **afterwards. So no would be my answer.**

13 Q. Have there been any discussions that you are aware of
14 that -- that you've been a part of at least with regard
15 to facial recognition and its application within the
16 Detroit Police Department based on either the incident
17 with Michael Oliver or Robert Williams?

18 **A. I haven't been a part of any of those discussions if**
19 **they occurred.**

20 Q. Who is your supervisor?

21 **A. My supervisor is Sergeant Reginald Beasley.**

22 Q. And who is the command officer for crime analysis?

23 **A. The command officer of the Crime Intelligence Unit?**

24 Q. The Crime Intelligence Unit, yes.

25 **A. I believe that is Commander Kari Sloan.**

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1 Q. And what hours do you work?

2 A. I work from 7:00 a.m. to 3:00 p.m. Monday through
3 Friday. However, I am on call 24/7 essentially.

4 Q. Let's go over the process again after the facial
5 recognition gives you a suspect. What happens?

6 A. So it provides me with a set of candidates.

7 Q. A set of candidates.

8 A. And I will go and look through those candidates for a
9 viable investigative lead.

10 Q. Okay. Slow down.

11 A viable investigative lead. How would you
12 make that determination?

13 A. Based on the training I received from the FBI looking at
14 the facial features of the candidates in comparison to
15 the probe image that I uploaded to Data Works.

16 Q. Okay. So that's just a judgmental thing?

17 A. Based on --

18 Q. Based on your perception?

19 A. Based on the training from the FBI.

20 Q. Tell me that training. I mean what does that -- I mean
21 is there any sort of special thing? I mean are you
22 looking for a nose, the shape of a nose and comparing
23 the two images and whether the ears flare out, or what
24 kind of training? I mean other than what I'm suggesting
25 is there anything special?

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1 A. They tell you what to look at on the face specifically
2 and, for instance, the nose, the shape of the ears, the
3 earlobes, the eyebrows, how they are shaped.

4 Q. Um-hmm.

5 A. The nostrils, the shape of the nostrils, the eyes, the
6 creases of the eyes, like the inside here, features of
7 the face like that, the vermilion, which is that space
8 above the lip, the coloring, along with the skull shape
9 of the head, the shape of the chin, how the chin
10 appears, you know, the creases, dimple I guess you could
11 say and other things. They do use the technical terms
12 which I have to refer to the material because it's not
13 terms I use every day through my discussion but
14 essentially that's what it is.

15 Training, you avoid using things like the
16 lighting, disregard that, keep in mind that that
17 changes, as I discussed earlier, the angling, you know,
18 taking that into account, things like that that could
19 obscure the image and the candidates as well.

20 Q. Okay. So, again, we're at the time where you get the
21 suspect image from facial recognition. You're saying
22 you're comparing the two pictures, the probe image with
23 that which was provided through the facial recognition?

24 A. Yes, with the candidates provided.

25 Q. The candidates. And is there a number of candidates

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1 that are -- that you can limit it to, you know, so you
2 say you only want five candidates as opposed to 10,000
3 candidates?

4 **A. No, the program provides the candidates. I don't have**
5 **any ability to modify.**

6 Q. So if it's 10,000, you're going to compare all 10,000 to
7 this one probe image?

8 **A. You're going to look through them.**

9 Q. And then it's up to you individually as a human being to
10 say this one is an imagine and the other 9,999 are --

11 **A. Yes, you would select the good candidate.**

12 Q. And then you're going by what you just testified to,
13 what the FBI says that you should look for?

14 **A. Yes.**

15 Q. And then you make that determination?

16 **A. Yes.**

17 Q. What do you do next?

18 **A. I would have a second trained analyst look at my**
19 **selection.**

20 Q. And among the trained analysts that you gave me the
21 names of would you be using one in particular?

22 **A. No. They're all trained as far as I'm aware, they're**
23 **all trained, they should all be trained by the FBI.**

24 Q. But they would be the same rank and qualification as
25 you; right?

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1 A. Yes.

2 Q. This is just a second pair of eyes?

3 A. With the same training.

4 Q. And then they can agree or they can disagree?

5 A. They can agree or disagree, yes.

6 Q. What if they disagree, what happens?

7 A. Then it's a bad candidate and that concludes my use of
8 facial recognition.

9 Q. Can a detective override that?

10 A. I don't believe so.

11 Q. If there's agreement what happens?

12 A. If there's agreement?

13 Q. Yes.

14 A. Then it goes to a supervisor or -- which would be a
15 sergeant or higher to --

16 Q. Okay. And that person, are they also trained?

17 A. I don't believe they have to be trained. I don't know.
18 I don't believe so.

19 Q. Okay. So what do they do? Do they essentially look at
20 it and say okay, looks good to me?

21 A. No, they can also disagree and say no.

22 Q. I understand, I understand.

23 But other than -- if they don't have any
24 training they're just, you know, looking at it and
25 saying okay, looks good to me?

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1 A. No, they can also disagree with the pick that we have
2 selected.

3 Q. I understand that. If they -- if they agree or
4 disagree, it's not based on any sort of specialized
5 training you say, it's just --

6 A. I believe it would be based on their experience, but
7 they don't have the same -- they don't go through the
8 same training as I do. Not all of them, some are.

9 Q. After the supervisor looks at it then what happens?

10 A. The pick, the good candidate information is provided to
11 the officer in charge of that homicide and then they
12 have to do further investigation as it's just an
13 investigative lead to use any of that information that
14 we provide to them.

15 Q. Um-hmm.

16 A. So they have to do, whatever they do in their
17 investigation to confirm that it's, in fact, that
18 individual who is involved in the homicide.

19 Q. All right. So prior to the September 2019 policy
20 Exhibit 2 --

21 A. Um-hmm.

22 Q. -- that process would not be followed; right? So it
23 would be just random?

24 A. I believe it was followed even though it doesn't outline
25 in here as far as I'm aware.

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1 Q. When you say you believe, you don't know, you're just
2 guessing?

3 A. I know --

4 Q. I don't want you to guess.

5 A. Sorry. I'm not exactly sure of every time I guess, so
6 no.

7 Q. As far as you know there may not even have been, you
8 know, the guy that gets the suspect prior to September
9 of 2019 and comparing the candidates with the probe
10 image they may have just said Okay, well, this is what
11 was spit back and this is a hit and move on from there
12 as far as you know?

13 A. As far as I know, it would I guess potentially, as far
14 as I know. You know, I don't know every single one that
15

16 Q. Okay.

17 MR. ROBINSON: I think that's all I have.

18 MR. CUNNINGHAM: I just have a few questions.

19 MR. ROBINSON: That scoring thing, I still
20 want that.

21 MR. CUNNINGHAM: Yes. I'm trying to get it
22 from him today. We'll see. I'll get it to you by
23 Friday.

24 EXAMINATION BY MR. CUNNINGHAM:

25 Q. Were you involved in the investigation involving Michael

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1 Oliver at all?

2 **A. I was not.**

3 Q. Did you do any analysis of facial recognition images in
4 connection with that case?

5 **A. I did not.**

6 Q. Are you aware of the procedures that were followed by
7 the staff in the Crime Intelligence Unit during the
8 course of that investigation?

9 **A. No, I have not.**

10 Q. Have you ever worked in the Crime Intelligence Unit?

11 **A. I have, yes.**

12 Q. When was the last time you worked in the Crime
13 Intelligence Unit?

14 **A. I worked in the Crime Intelligence Unit for a year and I
15 was moved up to Homicide in August 2019, I believe.**

16 Q. Okay.

17 **A. 2019.**

18 Q. Were you involved at all in the decisions or processes
19 of procuring the Data Works software from the vendor?

20 **A. I was not.**

21 Q. And are you -- do you have any information that suggests
22 to you that Data Works facial recognition technology is
23 inherently biased?

24 **A. I do not.**

25 MR. ROBINSON: Okay. I want to order this.

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1 MR. CUNNINGHAM: Me, too, please.

2 (The deposition was concluded at 12:08 p.m.)

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CERTIFICATE OF NOTARY

STATE OF MICHIGAN)

) SS

COUNTY OF OAKLAND)

I, Cynthia Ann Chyla, Certified Shorthand
Reporter, a Notary Public in and for the above county
and state, do hereby certify that the above deposition
was taken before me at the time and place hereinbefore
set forth; that the witness was by me first duly sworn
to testify to the truth, and nothing but the truth, that
the foregoing questions asked and answers made by the
witness were duly recorded by me stenographically and
reduced to computer transcription; that this is a true,
full and correct transcript of my stenographic notes so
taken; and that I am not related to, nor of counsel to
either party nor interested in the event of this cause.



Cynthia Ann Chyla, CSR-0092

Notary Public,

Oakland County, Michigan

My Commission expires: 05-12-2023

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